

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

APPLICATION NO: APP-0004871141

APPLICATION FOR: On premises with sport facility, public arena and events, restaurant and catering service classes

TRADING HOURS:

Catering service:
Sunday- Thursday: 10:00 AM-10:00 PM
Friday-Saturday: 12:00 PM-12:00 AM

Restaurant/Sport facility:
Monday-Saturday: 10:00 AM-10.30 PM
Sunday: 10:00 AM-10:00 PM

Public arena and events:
Monday-Saturday: 12:00 AM-10:30 PM
Sunday: 12:00 PM-10:00 PM

APPLICANT: Shane Warman

LICENCE NAME: Bankwest Stadium

PREMISES ADDRESS: 11 O'Connell St, PARRAMATTA, NSW 2150

ISSUE: Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse the on premises liquor licence application

LEGISLATION: Section 45(1) of the *Liquor Act 2007*

**ILGA DELEGATED DECISION – APPLICATION FOR AN ON PREMISES LIQUOR LICENCE
Bankwest Stadium**

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 an on premises, sports facility, catering service, restaurant and public arena and events classes, application number APP-0004871141.

On 26 March 2019, 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-Catering service, sport facility, public arena and events.**

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. **Restricted trading & NYE (except airport, catering, other public entertainment venue, vessel - std)**

Consumption on premises-restaurant.

Good Friday 12:00 noon - 10:00 PM (liquor can only be served with or ancillary to a meal in a dining area)

Christmas Day 12:00 noon - 10:00 PM (liquor can only be served with or ancillary to a meal in a dining area)

December 31st Normal opening time until normal closing time or 2:00 AM on New Year's Day whichever is the later

Note: Trading is also allowed at other times on Good Friday and Christmas Day if authorised by an extended trading authorisation. Liquor can only be served with or ancillary to a meal in a dining area after 5:00 AM on Good Friday and Christmas Day.

4. Sections 22(1) and (2) of the *Liquor Act 2007* (relating to the primary purpose of the business or activity carried out on the premises) do not apply to the premises to which this licence relates.
5. The extension of the licensed boundaries to include the 'Blue Zone' as approved, applies only on such days and for such times and only to those parts of the 'Blue Zone' as agreed with the Parramatta Park Trust and is subject to the agreement of the licensee and the Commander of Parramatta PAC in relation to the applicable alcohol management plan for the relevant part(s) of the 'Blue Zone'. The Parramatta Park Trust, the City of Parramatta Council and the Commander of Parramatta PAC must be notified at least 14 days before each occasion that the 'Blue Zone' is to be utilised, unless otherwise agreed.
6. The licensee shall not, nor permit managers and staff to, consume liquor in the licensed premises while engaged in the sale or supply of liquor (including during any meal or other break).
7. The licensee shall ensure that, for sporting and similarly large events, there are designated and suitably sign-posted alcohol-free areas on the licensed premises so that patrons and, in particular, families with children, have a reasonable opportunity to be seated away from liquor sales areas and persons consuming liquor.
8. The licensee must ensure that any alcoholic and/or non-alcoholic beverages sold or supplied in any public area must be served in a clear plastic container. This condition does not include any VIP area, private box or any other area designated as a VIP corporate hospitality suite

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and boxes that are delineated from areas open to, or used by, or accessible by the general public. The licensee shall ensure that the sale or supply of liquor in bottles or cans (including plastic bottles) is restricted to the following types of areas during any sporting or entertainment event:

- (a) corporate hospitality areas (including corporate suites and boxes) and other private areas physically delineated by railings or glass or other barriers) from areas open to, or used by, the public; and
- (b) areas used as VIP or members areas, restaurants and corporate hospitality areas, not physically accessible to the public, and separated (by substantial physical barriers) from areas open to, or used by, the public.

The licensee shall ensure that:

- (a) areas where the sale or supply of liquor in cans or bottles is allowed do not provide unrestricted access to any public grandstand seating area, or public areas; and
- (b) appropriate measures are in place at all times to prevent the taking of bottles and cans from the areas designated.

9. (a) The management of the premises:

- 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.
- 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 licensed 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 deploy security staff to ensure, to the best of their ability, that this condition is complied with.
- iii. Shall record in a register full details of any disturbance complaint/s made by a person to management or staff in respect of 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.
- 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.

- (b) An adequate queuing system for patrons must be implemented so as to ensure that if patrons are queuing to gain entry they do not obstruct or impede pedestrian traffic flow.

10. The Licensee shall maintain a CCTV system that meets the following minimum requirements:

- (1) Adequate cameras must be located at the main entrance to the venue and positioned to record any person entering through this entrance. The CCTV recordings of these cameras must be sufficient to enable the individual to be identified, beyond reasonable doubt, when:
 - (a) The person represents not less than 100% of the screen height, and
 - (b) There is an unobstructed view of the person's face.

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- (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) All portions of the floor area accessible to the public where entertainment is provided,
 - (c) The external entrances of any toilets,
 - (d) All publicly accessible areas within the premises excluding toilets and accommodation rooms.
- (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.
- (4) Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.
- (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.
- (6) Recordings must:
 - (a) Be in digital format,
 - (b) Record at a minimum of fifteen (15) frames per second,
 - (c) Commence one hour prior to opening, and operate continuously until at least one (1) hour after closing.
- (7) 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.
- (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.
- (9) When the venue is open and trading, at least one person shall be at the venue who can access the CCTV system and is able to immediately review recordings and produce copies.
- (10) Immediate access to the CCTV system and the ability to review recordings is to be granted to NSW police, Liquor and Gaming NSW inspectors or other regulatory officers upon request.
- (11) The CCTV system shall be able to reproduce a copy of recordings on Compact Disc, DVD, or USB memory stick and must, upon request, be provided within 48 hours to NSW Police, Liquor and Gaming inspectors or other regulatory officers.
- (12) Prior to 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 on an event day, it is discovered that the equipment is not in full operating order,

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the licensee is to notify the NSW Police when they arrive on-site or as soon as possible. All reasonable steps must be undertaken to repair the system as soon as practicable.

11. The premises is to be operated at all times in accordance with the Alcohol Plan of Management dated February 2019 as may be varied from time to time after consultation with the Commander of Parramatta Police Area Command. 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 & Gaming NSW inspector, or any other person authorised by the Independent Liquor & Gaming Authority.
12. 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:
 - (a) 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 accord with Crime Scene Preservation Guideline, issued by NSW Police, and
 - (b) make direct and personal contact with the Local Area Commander or his/her delegate, and advise the Commander or delegate of the incident, and
 - (c) comply with and directions given by the Commander or delegate to preserve or keep intact the area where the act of violence occurred.
13. The licensee must ensure that an incident register is kept on the premises; and that any incident involving any staff member and/or security personnel; the physical contact and/or physical restraint; the ejection of a member of the public from the premises; or when a patron, staff member or security personnel is injured as a result of an assault; is recorded in this register. The licensee must ensure to record the full names of the staff involved in the incident, and produce the register immediately upon request by members of the NSW Police Force, or authorised officers of Liquor and Gaming NSW.
14. The licensee shall take all reasonable steps to ensure that a person appointed as a manager, duty manager or supervisor is responsible to the licensee for the liquor sales area or areas he or she is assigned to (at the time he or she is on duty) for the control and supervision of the liquor and related operations of the licence. The licensee shall maintain reasonable and appropriate control over, and supervision of, managers and all persons involved in the sale and supply of liquor on the licensed premises to ensure the licence is operated responsibly and in accordance with the *Liquor Act 2007*, these conditions and the Alcohol Plan of Management.

The licensee shall take all reasonable steps to ensure that duty managers and supervisors must at all times while on duty be identified by a distinct uniform or other appropriate means to allow easy identification and distinction from other persons at the licensed premises. Managers must while on duty wear visible a visible photo-identification card, carrying as a minimum the manager's name and position.

The licensee shall take all reasonable steps to ensure that supervisors, managers and persons involved in the sale and supply of liquor on the licensed premises are aware of, receive adequate training in, and carry out, their liquor service responsibilities in accordance with the *Liquor Act 2007*, these conditions and the Alcohol Plan of Management.
15. The licensee and managers shall take all reasonable steps and shall have procedures in place, including the responsible service of liquor, to prevent intoxication and disorderly, anti-social or violent behaviour on the licensed premises.

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The licensee shall take all reasonable steps to ensure that liquor is not sold or supplied to minors, or purchased for or consumed by minors on the licensed premises.

The licensee shall ensure that an appropriate queuing system is maintained at liquor sales areas to ensure patrons purchasing liquor are able to be appropriately assessed by the licensee, manager, bar or security staff so that:

- (a) intoxicated patrons are not served liquor;
- (b) patrons appearing to be under 18 years of age are asked for documentary proof of age, and refused service of liquor if they do not have the required proof of age; and
- (c) underage people are not served liquor.

The licensee shall ensure that the following liquor serving practices are implemented by managers and serving staff:

- (a) no more than four (4) drinks are sold or supplied from a bar outlet to one (1) person at any one (1) time;
- (b) sales of spirits are limited to single shot measures, or less, per serve;
- (c) low alcohol beer and non-alcoholic beverages are available at all times that full strength beverages are sold or supplied at any liquor sales area on the premises, and prices charged for low-alcohol adequately reflect the lesser taxes that apply to low-alcohol beer as compared to full-strength beer;
- (d) food is available from food outlets on the licensed premises in close proximity to all areas where liquor is sold or supplied; and
- (e) drinking water shall be available free of charge at all times liquor is being sold.

16. A full copy of all current development consents (including approved plans) for the operation of the premises, any registers required and any required plans of management as listed in the approved development consent must be kept on the premises and made available for inspection immediately upon request by Council officers, Police officers and/or Liquor & Gaming NSW inspectors.

17. The licensee shall appoint or cause to be appointed an appropriate number of managers, duty managers and supervisors to control, manage and supervise the persons involved in the sale and supply of liquor on the licensed premises and to ensure the responsible service and responsible consumption of alcohol on the licensed premises.

The licensee shall also ensure that managers, duty managers, supervisors and other persons involved in the sale and supply of liquor on the licensed premises shall have successfully completed a responsible service of alcohol course approved by the Authority, are aware of the terms of the Alcohol Plan of Management and the conditions of the licence and are otherwise suitably trained to carry out their respective duties in accordance with the Plan and the conditions of the licence. The licensee shall comply with all reasonable requests by Liquor and Gaming NSW, NSW Department of Industry (The Department) and the Commander of Parramatta Police Area Command (the Commander) as to the appropriate number of managers required to control and supervise the sale and supply of liquor on the licensed premises.

A person may only be appointed to the position of manager if:

- (a) the licensee is satisfied that the person is a suitable person to supervise liquor operations on the licensed premises;

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- (b) the person has successfully completed a responsible service of alcohol course;
 - (c) the person has consented to his or her appointment as manager;
 - (d) the licensee has made a copy of these conditions and the Alcohol Plan of Management available to the person and the person has signed a statement indicating the person's agreement to comply with the conditions and the Plan; and
 - (e) the licensee has notified The Department of the name and relevant details of the person, along with evidence of the person's consent and agreement to comply with the conditions and the Plan.
18. On receipt of the information from the licensee regarding appointed managers and supervisors the Department may make appropriate inquiries as necessary to be satisfied that a person appointed as a manager is a fit and proper person to be a manager of a liquor sales area or areas on the licensed premises. The Department in establishing whether a person is suitable to be appointed as a manager, shall have regard to these conditions, harm minimisation principles and the responsible service of liquor.

Where the Department is not satisfied as a result of his or her inquiries that a person appointed as a manager is a fit and proper person to be a manager on the licensed premises, the Department may issue directions to the licensee requiring the removal of the person in his or her capacity as manager. The licensee shall not appoint a person or continue any such appointment as a manager if the Department has notified the licensee that the Department is not satisfied the person is a fit and proper person to be a manager. The licensee shall comply with any reasonable direction issued by the Department concerning the appointment and removal of managers.

STATEMENT OF REASONS

1. Material before the ILGA delegate

(Reference DF18/021643)

- (1) Application lodged 18 December 2018.
- (2) Additional documents have been forwarded in support of the application.
- (3) Plan of the proposed licensed premises, (stadium).
- (4) Signed certificate of advertising dated 31 January 2019.
- (5) ASIC report for the business owner.
- (6) National Police Certificate and copies of ID for the proposed licensee.
- (7) Plan of management dated February 2019.
- (8) Development consent SSD 8175, issued by the Minister for Planning, 31 August 2017 for the construction of a 30,000 seat stadium and playing pitch providing for 27,000 general administration seats, 3,000 corporate box seats, ancillary function centre and associated kitchen facilities, general admission viewing areas, food and beverage outlets, amenities

and associated facilities. The venue has also been approved for music concerts, in addition to the independent use of the function centre for various functions and events. This consent also approves a public domain area including public plazas and entertainment areas.

- (9) Correspondence from City of Parramatta Council dated 8 January 2019, raising no objection to the grant of this licence.
- (10) A submission has been forwarded from Parramatta Licensing Police 28 February 2019 raising no objection to the grant of this liquor licence but police have requested a number of conditions on the licence to be imposed on the licence, if granted.
- (11) A submission has been received from Compliance, 13 March 2019, which does not object to the grant of this licence and makes reference to a few points within the Plan of management. The delegate has duly considered these points prior to determining the application.
- (12) Email correspondence from Liquor & Gaming NSW to the applicant's agent requesting additional information in support of the application
- (13) Email correspondence in response, from the agent to Liquor & Gaming NSW.

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) 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 Parramatta and the broader area the City of Parramatta Council.

5. Analysis of Submissions and other Materials

- (1) An on premises application for a newly constructed sports stadium in Parramatta for up to 30,000 patrons. Sport facility, catering service, restaurant and public arena and events have been proposed as licence classes.
- (2) The City of Parramatta Council has forwarded correspondence in support of the grant of this licence.
- (3) Parramatta Licensing Police has requested a number of conditions to be imposed on the licence which has been duly considered by the delegate.
- (4) Compliance have not objected to this application.
- (5) No submissions objecting to this on premises application have been received.
- (6) I am satisfied that the statutory advertising requirements have been met.
- (7) Development Consent is in place for the proposed use of the venue.

6. Overall social impact

(1) Positive benefits

- (2) A new state of the art venue, known as Bankwest Stadium has replaced the former Parramatta Stadium and is scheduled to open April 2019. The stadium will bring big ticket events to Western Sydney, catering for major national and international sporting and other entertainment events and festivals. The proposed patron capacity of the stadium is 30,000 with five levels of premium, corporate and function spaces. An activation zone surrounding the stadium is also proposed for community events. It is envisaged that the function centre may be utilised independently for functions and events.

(3) Negative impacts

No submissions have been received objecting to the grant of this application.

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.

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- (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: 26 March 2019



Joanne Zammit
Manager (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>