

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

APPLICATION NO:	APP-0004866480
APPLICATION FOR:	On premises tertiary institution with catering service and sale on other premises authorisation
TRADING HOURS:	Monday to Saturday: 10:00 AM to 12:00 AM Sunday : 10:00 AM to 10:00 PM
APPLICANT:	Anthony Walters
LICENCE NAME:	St John's College
PREMISES ADDRESS:	10 Missenden Rd, CAMPERDOWN, NSW 2050
ISSUE:	Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse the liquor licence application
LEGISLATION:	Section 45(1) of the <i>Liquor Act 2007</i>

ILGA DELEGATED DECISION – APPLICATION FOR A LIQUOR LICENCE

St John's College

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, tertiary institution with catering service and sale on other premises authorisation, application number APP-0004866480.

On 04 February 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
Good Friday 12:00 noon - 10:00 PM (liquor can only be served with or ancillary to a

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	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.

3. Consumption on premises-Catering

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

- The licensee must not exercise the sale on other premises authorisation at locations/venues where there is already a current and valid liquor licence in force.
- The sale on other premises authorisation may only be exercised within the grounds of St John's College.
- The premises is to be operated at all times in accordance with the Plan of Management dated December 2018 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 and/or Liquor and Gaming NSW inspector.
- The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) by more than 5dB between 07:00 am and 12:00 midnight at the boundary of any affected residence.

The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) between 12:00 midnight and 07:00 am at the boundary of any affected residence.

Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00 am.

8. Crime Scene preservation

Immediately after the person in charge of the licensed premises or a staff member becomes aware of any incident involving an act of violence causing injury to a person on the premises, the person in charge of the licensed premises and/or staff member must:

- Take all practical steps to preserve and keep intact the area where the act of violence occurred,
- Retain all material and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by NSW Police, as published from time to time on the Liquor and Gaming NSW website,

3. Make direct and personal contact with NSW Police to advise it of the incident, and
4. Comply with any directions given by NSW Police to preserve or keep intact the area where the violence occurred.

STATEMENT OF REASONS

1. Material before the ILGA delegate

(Reference DF18/019031)

- (1) Application lodged 31 October 2018
- (2) Plan of Management for the venue, dated December 2018.
- (3) Plan of the proposed licensed premises.
- (4) Signed certificate of advertising, dated 8 January 2019
- (5) A Surrender application for the limited licence, LIQL524004633 St Johns College Students Club has been forwarded to be determined in tandem with the on premises application.
- (6) Correspondence from City of Sydney Council dated 8 January 2019 has been forwarded with no objections.
- (7) A submission has been forwarded by the Inner West Licensing Police, 22 November 2018. Police have not objected to the application but have requested conditions to be imposed should it be granted.
- (8) Email correspondence from Liquor & Gaming NSW to the applicant's agent requesting additional information in support of the application
- (9) Email correspondence in response, from the applicant's 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 Camperdown and the broader area the City of Sydney LGA.

5. Analysis of Submissions and other Materials

- (1) This application relates to on-premises, tertiary institution with catering service and sale on other premises authorisation for the historic St John's College, a residential college within the University of Sydney. Established in 1857 the college is the second oldest university college in Australia. The college is located in Camperdown.
- (2) A Plan of Management has been provided by the applicant. This plan details RSA guidelines that will be in place at the venue.
- (3) The proposed patron capacity is 300
- (4) The catering service and sale on other premises authorisation is sought to facilitate student events/functions within the proposed licensed area in addition to within the grounds of the college.
- (5) A submission has been forwarded from Inner West Licensing Police have requested conditions to be imposed on the licence which have been duly considered by the delegate.
- (6) The City of Sydney council have forwarded correspondence with no objections to the grant of this application.
- (7) A current limited liquor licence relating to the college is to be surrendered on approval of the on premises application.
- (8) I am satisfied that the statutory advertising requirements have been met.

6. Overall social impact

(1) Positive benefits

The granting of this liquor licence will enhance the services available to students of St John's College and enable the venue to provide additional functions/events for the students.

(2) Negative impacts

The delegate has duly considered police's submission and has imposed conditions on the licence.

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.
- (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: 04 February 2019



Wendy Yeung Wye Kong
A Coordinator (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>