



Customer  
Service

Liquor and Gaming NSW

**NSW Department of Industry  
Liquor and Gaming NSW**

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**APPLICATION NO:** APP-0005870824

**APPLICATION FOR:** On-Premises Liquor Licence for restaurant, sport facility, karaoke venue with extended trading and primary service authorisations.

**TRADING HOURS:**  
**Liquor trading hours**  
Monday to Sunday: 10:00 AM to 12:00 AM

**Primary Service Authorisation:**  
Monday to Sunday: 10:00 AM to 12:00 AM

**APPLICANT:** CCC ENTERTAINMENT PTY LTD

**LICENCE NAME:** Space

**PREMISES ADDRESS:** Shop R3.09 , Market City Shopping Centre, 9-13 Hay St, HAYMARKET , NSW 2000

**ISSUE:** Whether a delegated Liquor and Gaming NSW employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse an application for an on-premises liquor licence..

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

**ILGA DELEGATED DECISION – APPLICATION FOR  
On-Premises Liquor Licence  
Space**

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 and Gaming NSW in the Department of Customer Services has decided to grant the application for an on-premises liquor licence for the following classes: restaurant, sport facility, karaoke venue with extended trading and primary service authorisations, application number APP-0005870824.

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On 3 October 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 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. Consumption on premises

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.
3. The licence is authorised for the trading hours fixed by the Authority or such lesser hours as may be approved by the consent authority from time to time.
4. Only liquor sold or supplied under the authority of the licence is permitted on the licensed premises. The licensee must not permit patrons to bring liquor onto the premises.
5. The licensee must ensure that containers of liquor are opened prior to serving.
6. No drinks designed to be consumed rapidly, for example 'shots', 'shooters', 'slammers', 'bombs' are to be sold or supplied at the premises.
7. Liquor must not be sold, supplied or consumed in any karaoke room in which a minor is present, unless the minor is accompanied and in the presence of a responsible adult as defined under the Liquor Act 2007.
8. 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.
9. Crime scene preservation condition:

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

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the premises, the person in charge of the licensed premises and/or staff member must:

1. Take all practical steps to preserve and keep intact the area where the act of violence occurred,
2. 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.

In this condition, 'staff member' means any person employed by, or acting on behalf of, the licensee of the premises, and includes any person who is employed to carry on security activities (eg. crowd controller or bouncer) on or about the premises.

## STATEMENT OF REASONS

### 1. Material before the ILGA delegate (DF19/011186)

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

- (1) Application form lodged on 2 July 2019
- (2) Category A Community Impact Statement (CIS)
- (3) Plan of proposed licensed area
- (4) Plan of management
- (5) Certification of Advertising
- (6) Development consent D/2019/222 issued by City of Sydney Council, 2 May 2019, for use and fit-out of a licensed entertainment rooms, a sports bar, and restaurant.
- (7) A submission has been forwarded by Sydney City Licensing Police on 10 July 2019, with no objections but conditions have been requested to be imposed on the licence if granted.
- (8) The Secretary to Liquor & Gaming (Compliance) have forwarded a submission with no concerns.
- (9) One public submission has also requested a suite of conditions to be imposed on the licence if granted.
- (10) ASIC Extract

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- (11) Correspondence from Liquor and Gaming NSW to the agent requesting further information and consent to conditions
- (12) Correspondence from the agent in response to Liquor and 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

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- 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.

### 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 Haymarket, and the “broader community” of City of Sydney LGA

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### 5. Analysis of Submissions and other Materials

- (1) Having reviewed all of the material, I am satisfied that this application for an on premises liquor licence for restaurant, sport facility, karaoke venue with extended trading and primary service authorisations is unlikely to result in any significant increase in alcohol-related harms in the local community.
- (2) The licence will be exercised in accordance with the Plan of Management provided to the Authority.
- (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) Police have not objected but have requested conditions to be imposed which have been duly considered.
- (6) The Secretary to Liquor & Gaming NSW has not raised any matters of concern regarding the grant of this application.
- (7) One public submission has also been considered by the delegate.

#### Overall social impact

**(1) Positive benefits**

The granting of the licence offer the public an alternative venue to frequent which offers both restaurant and entertainment facilities.

**(2) Negative impacts**

The imposition of a number of conditions means that there are unlikely to be any amenity impacts on the local community.

### 6. 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.

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- (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.

Decision Date: 3 October 2019



**Joanne Zammit**

**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.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.



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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>