

**NSW Department of Justice  
Liquor & Gaming NSW**

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<b>APPLICATION NO:</b>	APP-0001767731
<b>APPLICATION FOR:</b>	Liquor – on-premises catering service, public hall, social activity and support, tourist and cultural precinct classes.
<b>TRADING HOURS:</b>	Monday to Saturday 10:00 AM to 12:00 AM Sunday 10:00 AM to 10:00 PM
<b>APPLICANT:</b>	Peter Rugg
<b>LICENCE NAME:</b>	The Connection, Rhodes Community Precinct
<b>PREMISES ADDRESS:</b>	30 Shoreline Drive, RHODES, NSW 2138
<b>ISSUE:</b>	Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse an application for an on-premises liquor licence
<b>LEGISLATION</b>	Section 45(1) of the <i>Liquor Act 2007</i>

**ILGA DELEGATED DECISION – APPLICATION FOR  
ON-PREMISES LIQUOR LICENCE**

**The Connection, Rhodes Community Precinct**

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 Justice, has decided to grant the application for an on-premises liquor licence, APP-0001767731.

On 2 December 2016 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 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 31<sup>st</sup>        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

Good Friday        Normal trading

Christmas Day     Normal trading

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

4. The premises are to be operated at all times in accordance with the Plan of Management dated 16 November 2016 as may be varied from time to time in consultation in consultation with the Local Area Commander.
5. A copy of the Plan of Management must be maintained on the licensed premises and made available for immediate inspection by NSW police or Liquor and Gaming Inspectors.
6. No drinks commonly referred to as shots, shooters, slammers and/or bombs are to be sold or supplied.
7. The business of providing the Catering Service must be for fee, gain or reward. Functions held pursuant to the Catering Service must be pre-booked. A Catering Service booking register must be maintained.
8. An accredited security guard is to be engaged for any event:
  - a. where alcohol is being sold or supplied;
  - b. with more than 100 patrons and;
  - c. that concludes after 5:00PM.

An additional guard is to be engaged for each additional 100 patrons thereafter.
9. Notice of the event and details of the security staff hired is to be lodged with the local police prior to the event
10. The licensee or his/her representative must be present for all functions held at the premises where alcohol is being sold or supplied.
11. The licensee must ensure that patrons entering/leaving the venue do not disturb the amenity of the neighbourhood
12. The licensee or its representative must join and be an active participant in the Local Liquor Accord.
13. A CCTV surveillance system will be installed at the premises. Physical access to and copies of recordings from the CCTV system are to be made available upon request from NSW Police. There is to be a member of staff present when the premises is operating that can gain access to and operate the CCTV system to allow for immediate playback of footage to assist with identification and investigations. CCTV recordings should be retained for a period of 28 days before being reused or destroyed.

## STATEMENT OF REASONS

### 1. Material before the ILGA delegate

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

- (1) Application form – Lodged 7 June 2016 (DOC16/064786)
- (2) Plan of Management for the Premises dated 16 November 2016 (DOC16/164204)
- (3) Premises plan of the proposed licensed area (DOC16/066160)
- (4) NSW National police certificate dated 2 May 2016 (DOC16/064793)
- (5) Identification documentation lodged with application (DOC16/064791)
- (6) Responsible service of alcohol competency card with an expiry date of 30 March 2019 (DOC16/064789)
- (7) Premises photos confirming that the venue is ready to trade (DOC16/164749)
- (8) Notice of Determination 10.2014.248.1, issued on 19 February 2015 by City of Canada Bay (DOC16/154317)
- (9) Secretary to Compliance Operations Dept of Justice submission dated 25 November 2016 with no concerns. (DOC16/1161894)
- (10) Burwood Police LAC submission 29 November 2016, requesting conditions to be imposed on the licence (DOC16/163204)
- (11) Public submission objecting to the application (DOC16/072942)
- (12) Response to public submission received 01 December 2016 (DOC16/164749)
- (13) Email correspondence dated 19 November 2016 from the Authority to the applicant requesting further information in relation to the application. (DOC16/154329)
- (14) Email correspondence from applicant providing responses to request for additional information, imposition of conditions and response to submissions (DOC16/164169, 164202, 164203, 164749)
- (15) Email from Canada Bay Council, not consenting to the LA10 noise condition to be imposed on the licence. (DOC16/164919)

## 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:
  - 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 State suburb of Rhodes and the Broader Community of the City of Canada Bay LGA.

#### 5. Analysis of Submissions and other Materials

- (1) This application for an on-premise catering class venue with tourist and cultural precinct, public hall and finally social activity and support as additional classes. The applicant had initially requested other public entertainment as a class and had forwarded a Community Impact Statement category A for a Primary Service Authorisation for the venue. An Extended Trading Authorisation to 4:00 AM was also forwarded without the required Category B Community Impact Statement. The applicant has agreed to withdraw the other public entertainment class in addition to the PSA and ETA elements and is happy to have catering, tourist and cultural precinct, public hall and social activity and support classes applied to the licence, which do not require the PSA element.
- (2) The City of Canada Bay is the premises and business owners. According to the venue website, the venue is marketed as a “**multi purpose community precinct that provides a combination of indoor and outdoor spaces**”. Facilities can be hired for functions/events. The applicant has requested a large outdoor area to be included within the licensed boundaries, to permit flexibility for hiring for

potential customers. Should clients wish to include a section of the outdoor area, physical definitions will always be in place.

- (3) Having reviewed all of the material, I am satisfied that the risk levels associated with this application for an on premises with catering, public hall, tourist and cultural precinct and social activity and support classes are minimised.
- (4) The licence will be exercised in accordance with a Plan of Management that provides operational practices in place to; minimise the potential for adverse impacts to the neighbourhood; that complies with conditions of the licence; and to ensure compliance with the *Liquor Act 2007* and Liquor Regulations to ensure liquor is consumed responsibly; to minimise the potential for intoxication; that intoxicated persons are not permitted entry; and that liquor is not sold to minors.
- (5) Submissions were received by the Secretary, Delegate of the Department of Justice, NSW Police. The applicant was given the opportunity to provide responses to the submissions. The applicant consents to conditions proposed by the Delegate and police.
- (6) I am satisfied that the statutory advertising requirements have been met.

## 6. Overall social impact

### (1) Positive benefits

Having examined the material provided with the application, I am satisfied that the grant of the liquor licence will be of public interest within the Rhodes district, offering a revenue to cater for community activities as well as private/ corporate functions

### (2) Negative impacts

Although there was one public submission opposing the application, the applicant has addressed these concerns and will work with the community in the future should any concerns arise.

## 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) I am satisfied that the applicant has provided consent to imposing the conditions contained in the licence document.
- (6) 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 on-premises liquor licence application with conditions.

Decision Date: 2 December 2016



Joanne Zammit

Coordinator Licensing (Business Licensing)  
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.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>